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Notice of Allowability

Application No.

09/603,222

Examiner

Jila M. Mohandes

Applicant(s)

EPSTEIN, MEREL

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 03/30/2007.
2. ☒ The allowed claim(s) is/are 7-10.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>04-16-2007</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with applicant's attorney Mr. Arnold S. Weintraub on April 16, 2007.

The application was amended as follows:

Claim 7. (Currently Amended) In a balancing disc of the type for balancing the gait of a user when used in conjunction with a footwear item, the improvement comprising:

a substantially rigid, circular, rotatable wedge member having a continuous planar upper surface and a continuous planar lower surface, the upper and lower surfaces being angularly inclined with respect to each other by an angle Θ of about 2° to about 6° the disc being attachable to a footwear item for imparting proper weight distribution and balance to the user, and

means for affixing the disc to a footwear item.

Claim 8 (Currently Amended) The improvement disc of claim 7 wherein the disc is formed of a substantially non-compressible solid material selected from the group consisting of leather, rubber or plastic.

Claim 9 (New) In a system for balancing the gait of a user of the type wherein a balancing device is affixed to a footwear item, the improvement which comprises

a substantially rigid, circular wedge member, the member having a continuous planar upper surface and a continuous lower surface, the upper and lower surfaces being angularly inclined with respect to each other by an angle Θ of about 2° to about 6° , and

means for affixing the device to said footwear item for imparting proper weight distribution and balance to the user.

Claim 10 (New) In combination,

(a) a footwear item, and

(b) a balancing disc for balancing the gait of user, the disc

comprising;

a substantially rigid, circular, wedge member, the member having a continuous planar upper surface and a continuous lower surface, the upper and lower surfaces being angularly inclined with respect to each other by an angle Θ of about 2° to about 6° and

means for affixing the disc to said footwear item.

REASONS FOR ALLOWANCE

2. The following is an examiner's statement of reasons for allowance: The prior art fails to teach or suggest a balancing disc having the structural features recited in the claims in combination with a means for affixing the disc to an article of footwear. It is

noted here that claims 7 and 8 are drawn to the subcombination disc/means for affixing while claims 9 and 10 are drawn to the combination of the footwear and the disc/means for affixing.

3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

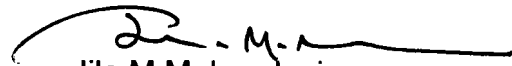
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jila M. Mohandesi whose telephone number is (571) 272-4558. The examiner can normally be reached on Monday-Friday 7:30-4:00 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Application/Control Number: 09/603,222
Art Unit: 3728

Page 5

A handwritten signature in black ink, appearing to read 'J. M. Mohandesi', with a long horizontal flourish extending to the right.

Jila M Mohandesi
Primary Examiner
Art Unit 3728

JMM
April 16, 2007